STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS
55 FARMINGTON AVENUE
HARTFORD, CT 06105

[redacted] **2017**
Signature Confirmation

Client ID # [redacted]
Request # 797232

NOTICE OF DECISION
PARTY

[redacted]
Re: [redacted]

PROCEDURAL BACKGROUND

On [redacted] 2016, BeneCare Dental Plans ("BeneCare") sent [redacted] (the "Appellant") a notice of action denying a request for prior authorization of orthodontia for her minor child, [redacted], indicating that the severity of [redacted] malocclusion did not meet the medical necessity requirement to approve the proposed treatment.

On [redacted] 2016, the Appellant requested an administrative hearing to contest the Department's denial of prior authorization of orthodontia.

On [redacted] 2016, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for [redacted] 2016.

The administrative hearing was rescheduled at the Appellant's request. OLCRAH issued a notice scheduling the administrative hearing for [redacted] 2017.

On [redacted] 2017, in accordance with sections 17b-60, 17b-61 and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, OLCRAH held an administrative hearing. The following individuals were present at the hearing:

[redacted], Appellant
Rosario Monteza, BeneCare's Representative
Dr. Brett Zanger, Benecare Dental Consultant (via telephone)
Sybil Hardy, Hearing Officer

STATEMENT OF THE ISSUE

The issue is whether BeneCare's denial of prior authorization through the Medicaid program for [redacted] interceptive orthodontic treatment was in accordance with state law.

FINDINGS OF FACT

1. The Appellant is the mother of the child, [redacted] (Appellant's Testimony)

2. [redacted] is 9 years old (D.O.B. [redacted]/07) and is a participant in the Medicaid program, as administered by the Department. (Appellant's Witness' Testimony, Hearing Record, Exhibit 2: Kool Smile's Malocclusion Severity Assessment, [redacted]/16)

3. Benecare is the Department of Social Services' (the "Department") contractor for reviewing dental provider's requests for prior authorization of orthodontic treatment. (Hearing Record)

4. Kool Smiles, Waterbury, Connecticut, is [redacted] treating orthodontist (the "treating orthodontist"). (Hearing Record, Exhibit. 1: Prior Authorization Claim Form, [redacted]/16)

5. On [redacted] 2016, the treating orthodontist requested prior authorization to complete orthodontic services for [redacted] (Exhibit 1)

6. On [redacted] 2016, BeneCare received from the treating orthodontist a Preliminary Handicapping Malocclusion Assessment Record, Dental models and Panorex Films of [redacted] mouth. The treating orthodontist indicated that [redacted] requires a maxillary rapid palatal expander ("RPE") to correct a maxillary left posterior crossbite. (Exhibit 2)

7. On [redacted] 2016, Dr. Benson Monastersky, DMD, BeneCare's orthodontic dental consultant, independently reviewed [redacted] models and panoramic radiographs, and arrived at a score of zero points on a completed Preliminary Handicapping Malocclusion Assessment Record. BeneCare's orthodontic dental consultant found no presence of other severe deviations affecting the mouth and underlying structures and indicated that [redacted] does not meet Phase One treatment guidelines and there is no functional deviation.

(Exhibit 3: Preliminary Handicapping Malocclusion Assessment Record, [redacted]/16)

8. On [redacted] 2016, BeneCare denied the treating orthodontist's request for prior authorization for orthodontic services for the reason that the document provided by the dentist provided no evidence that the requested services were medically necessary and there is no additional substantial information about the presence of severe deviations affecting the mouth and underlying structures if left untreated would cause irreversible damage to the teeth and underlying structures. (Exhibit. 4: Notice of Action for Denied Services or Goods, [redacted]/16)

9. On [redacted] 2016, the Department received the Appellant's request for an administrative hearing. (Exhibit. 5: Appeal and Administrative Hearing Request Form, [redacted]//16)

10. On [redacted] 2016, Dr. Geoffrey Drawbridge, DDS, the Department's dental consultant, reviewed [redacted] models and panoramic radiographs and arrived at a score of 18 points on a completed Preliminary Handicapping Malocclusion Assessment Record. There is no presence of severe deviations affecting the mouth and underlying structures. The dental consultant indicated that [redacted] does not meet the criteria for the requested treatment. (Exhibit 6: Preliminary Handicapping Malocclusion Assessment Record, [redacted]/16)

11. On [redacted] 2016, BeneCare notified the Appellant that orthodontic treatment is not medically necessary for [redacted] (Exhibit 7: Letter Regarding Orthodontic Services, [redacted]/16)

12. The treating orthodontist and the two dental consultants scored [redacted] teeth less than the required 26 points. (Exhibit 2, Exhibit 3, Exhibit 6)

13. [redacted] receives regular dental care and has no cavities or periodontal disease. (Appellant's Testimony)

14. [redacted] receives regular medical care and is in good general health. (Appellant's Testimony)

15. [redacted] does not have any infection but experiences some pain when chewing food. (Appellant's Testimony)

16. [redacted] does not receive speech therapy services. (Appellant's Testimony)

17. [redacted] does not receive treatment from a licensed psychiatrist or psychologist for issues related to her malocclusion. (Appellant's Testimony)

CONCLUSIONS OF LAW

1. State statute provides that the Department may make such regulations as are necessary to administer the medical assistance program. [Conn. Gen. Stat. §17b-262]

2. State regulations provide that orthodontic services for services provided for individuals less than 21 years of age will be paid for when provided by a qualified dentist and deemed medically necessary as described in these regulations. [Conn. Agencies Regs. §17-134d-35(a)]

3. State statute provides (a) For purposes of the administration of the medical assistance programs by the Department of Social Services, "medically necessary" and "medical necessity" mean those health services required to prevent, identify, diagnose, treat, rehabilitate or ameliorate an individual's medical condition, including mental illness, or its effects, in order to attain or maintain the individual's achievable health and independent functioning provided such services are: (1) Consistent with generally-accepted standards of medical practice that are defined as standards that are based on (A) credible scientific evidence published in peer-reviewed medical literature that is generally recognized by the relevant medical community, (B) recommendations of a physician-specialty society, (C) the views of physicians practicing in relevant clinical areas, and (D) any other relevant factors; (2) clinically appropriate in terms of type, frequency, timing, site, extent and duration and considered effective for the individual's illness, injury or disease; (3) not primarily for the convenience of the individual, the individual's health care provider or other health care providers; (4) not more costly than an alternative service or sequence of services at least as likely to produce equivalent therapeutic or diagnostic results as to the diagnosis or treatment of the individual's illness, injury or disease; and (5) based on an assessment of the individual and his or her medical condition. [Conn. Gen Stat. § 17b-259b]

4. Section 17b-282e of the Supplement to the General Statutes provides the Department of Social Services shall cover orthodontic services for a Medicaid recipient under twenty-one years of age when the Salzmann Handicapping Malocclusion Index indicates a correctly scored assessment for the recipient of twenty-six points or greater, subject to prior authorization requirements. If a recipient’s score on the Salzmann Handicapping substantive information when determining the need for orthodontic services, including (1) documentation of the presence of other severe deviations affecting the oral facial structures; and (2) the presence of severe mental, emotional or behavioral problems or disturbances, as defined in the most current edition of American Psychiatric Association, that affects the individuals daily functioning.

5. State regulations define the Preliminary Handicapping malocclusion Assessment Record as the method of determining the degree of malocclusion and eligibility for orthodontic services. Such assessment is completed prior to performing the comprehensive diagnostic assessment. [Conn. Agencies Regs. § 17-134d-35(b)(3)]

6. State regulations provide that the study models submitted for prior authorization must clearly show the occlusal deviations and support the total point score of the preliminary assessment. [Conn. Agencies Regs.§17-134d-35(f)]

7. [redacted] study models submitted for prior authorization do not show severe deviations affecting the mouth and underlying structures; and do not meet the required criteria on the preliminary assessment.

8. The Department correctly determined that [redacted] malocclusion did not meet the criteria for severity, as established in state regulations.

9. BeneCare correctly denied the prior authorization request for [redacted] because she does not meet the medical necessity criteria for orthodontic services, in accordance with state law.

DECISION

The Appellant's appeal is **DENIED**.

Sybil Hardy
Hearing Officer

Pc: Diane D'Ambrosio, Connecticut Dental Health Partnership, P.O. Box 486Farmington, CT06032
Rita LaRosa, CTDHP

RIGHT TO REQUEST RECONSIDERATION

The appellant has the right to file a written reconsideration request within **15** days of the mailing date of the decision on the grounds there was an error of fact or law, new evidence has been discovered or other good cause exists. If the request for reconsideration is granted, the appellant will be notified within 25 days of the request date. No response within 25 days means that the request for reconsideration has been denied. The right to request a reconsideration is based on §4-181a (a) of the Connecticut General Statutes.

Reconsideration requests should include specific grounds for the request: for example, indicate what error of fact or law, what new evidence, or what other good cause exists.

Reconsideration requests should be sent to: Department of Social Services, Director, Office of Administrative Hearings and Appeals, 55 Farmington Avenue Hartford, CT 06105.

RIGHT TO APPEAL

The appellant has the right to appeal this decision to Superior Court within 45 days of the mailing of this decision, or 45 days after the agency denies a petition for reconsideration of this decision, provided that the petition for reconsideration was filed timely with the Department. The right to appeal is based on §4-183 of the Connecticut General Statutes. To appeal, a petition must be filed at Superior Court. A copy of the petition must be served upon the Office of the Attorney General, 55 Elm Street, Hartford, CT 06106 or the Commissioner of the Department of Social Services, 55 Farmington Avenue Hartford, CT 06105. A copy of the petition must also be served on all parties to the hearing.

The 45 day appeal period may be extended in certain instances if there is good cause. The extension request must be filed with the Commissioner of the Department of Social Services in writing no later than 90 days from the mailing of the decision. Good cause circumstances are evaluated by the Commissioner or the Commissioner's designee in accordance with §17b-61 of the Connecticut General Statutes. The Agency's decision to grant an extension is final and is not subject to review or appeal.

The appeal should be filed with the clerk of the Superior Court in the Judicial District of New Britain or the Judicial District in which the appellant resides.